THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5639 OF 2007

Dated 30th APRIL, 2007

BETWEEN:

Akkala Narasimha Reddy

… Petitioner

And

The Prasanna Venkata Ramana Swamy Vari Devastanam, Madanapalli, Chittoor District, rep. by its Executive Officer

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5639 OF 2007

ORDER:

The land admeasuring about Acs.3.00 comprised in survey Nos.135 (Acs.0.15), 136 (Acs.0.28), 137 (Acs.0.07), 137-B (Acs.0.23), 138-D (acs.0.17½), 141 (Acs.0.30), 156-1A (Acs.0.05), 208 (Acs.0.14), 174 (Acs.1.75), 182-B (Acs.0.20), 182 (Acs.0.12), 620 (Acs.0.81), 611 (Acs.0.73) and 611-2A (Acs.0.50½) situated at Reddivaripally Village, Nimmanapalli Mandal, Chittoor District (hereafter called, the subject land), belongs to Sri Prasanna Venkata Ramana Swamy Vari Devasthanam, Madanapalli, the sole respondent herein. The petitioner is allegedly cultivating the land for the last thirty (30) years on payment of rent of Rs.2,000/- per annum. The petitioner claims that he is landless poor person entitled to the benefit under Section 82(2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity). Lease is valid up to 26.04.2007. In spite of the same, the Executive Office of the temple is trying to evict the petitioner and also instigating third parties to dispossess the petitioner. It is alleged that the respondent did not follow due process

of law contemplated under A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity). Therefore, he filed the instant writ petition seeking a writ of Mandamus declaring the action of respondent in trying to evict the petitioner from the subject land as illegal and arbitrary.

At the stage of Admission itself, learned standing counsel filed counter affidavit. The petitioner also filed reply affidavit. The matter was therefore heard finally at the stage of admission.

The case of the respondent is as follows. The petitioner is not the cultivating tenant nor he is a landless poor person. He is not in possession and enjoyment of the subject land nor the lease is extended up to 26.04.2007. The petitioner was never in possession of the subject land for a period six (6) years nor is entitled for protection under Section 82(2) of the Act or the Rules. The subject land admeasuring Acs.2.28½ is a dry land except an extent of Acs.0.35½ and is situated in Reddipavipalli Village, Nimmanapalli Mandal. The petitioner was tenant from 24.01.2004 to 23.01.2005 but at present Sri R.Ramachandra Reddy,
S/o Buchi Reddy, who became the highest bidder in the auction, is in possession of the land. The petitioner did not raise any crop in January, 2006 and did not cultivate the land but gave it to another farmer for cultivation, whose land is situated contiguous to subject land. After informing Assistant Commissioner on 15.02.2007, auction was conducted on 27.02.2007 for leasing out the land under tamarind tree. The brother of the petitioner A.Sahadeva Reddy singed the attendance slip but the petitioner, who was also present, refused to sign the same. All the participants in the auction including brother of the petitioner deposited Rs.500/- each and offered their bids. Ramachandra Reddy quoted Rs.28,100/- and paid the entire amount on 27.02.2007, whereas for the lease year 24.01.2004 to 23.01.2005, the petitioner paid only Rs.2,750/- In the reply affidavit, petitioner denies the allegations made in the counter affidavit and avers that the auction conducted by the respondent is illegal. It is also alleged that even when the tenant whose lease expired is in possession, he can only be evicted by issuing Notice in Form I under Rule 5 of the Rules and in the absence of such procedure, auction conducted by respondent is illegal.

This Court has heard the arguments of the learned counsel for petitioner and the learned standing counsel for respondent. The submissions are considered in the light of the documentary evidence placed by respondent before this Court along with the counter affidavit. A perusal of this would show that auction was conducted on

27.02.2007 and R.Ramachandra Reddy became highest bidder at Rs.28,100/- per month. The Inspector of Endowments also submitted a report in Rc.No.410/2007, dated 10.03.2007 to the Assistant Commissioner of Endowments, Chittoor, for recommending the case to Deputy Commissioner for confirmation of the highest bid for leasing out the land for a period of two years, i.e., from 27.02.2007 to 26.02.2009. However, it is not clear from the record or the averments in the counter affidavit as to whether the auction was confirmed by the competent authority as required under Rule 16 of the Rules, though it is alleged that possession was handed over to highest bidder and that he is effectively in possession and enjoyment of the property. However, this does not help the petitioner. Under Rule 16(1) of the Rules, all leases shall be reported to the competent authority, who may either confirm or disapprove the lease. Under Rule 16(3) of the Rules, if no orders are passed by competent authority either approving or rejecting the lease, the lease shall be deemed to have been approved. From this, a reasonable inference can be drawn that the lease in favour of the highest bidder has already been confirmed by the competent authority and in any event, it is deemed to have been confirmed. The petitioner has not placed any material before this Court to show that he was a lessee for a period of six years to claim the benefit under Section 82(2) of the Act. Indeed, the allegation of the respondent that petitioner was highest bidder at Rs.2,750/- for the period from 24.01.2004 to 23.01.2005 is not disputed.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

30.04.2007.
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